



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THE PROCTER & GAMBLE COMPANY,

Plaintiff,

- against -

PLAYTEX PRODUCTS, INC.,

Defendant.

08 Civ. 1532 (WHP)

Stipulation and [Proposed] Order

WHEREAS the Court, by Memorandum and Order dated August 7, 2008, denied the motion of plaintiff The Procter & Gamble Company ("P&G") for summary judgment, granted the cross-motion of defendant Playtex Products, Inc. ("Playtex") for summary judgment, dismissed the First Claim for Relief in the Amended Complaint, dated March 25, 2008, seeking a declaratory judgment on the issue of *res judicata*, and struck P&G's *res judicata* defense to Playtex's counterclaim; and

WHEREAS the parties agree that, because their present alignment does not reflect the essence of the remaining dispute, the parties should be realigned so that Playtex is the plaintiff and P&G is the defendant in this matter;

WHEREFORE, it is hereby stipulated between the parties as follows:

1. P&G is hereby realigned and designated as the defendant;
2. Playtex is hereby realigned and designated as the plaintiff;

3. Playtex shall file and serve on counsel for P&G a complaint in this action with the caption reflecting Playtex as plaintiff and P&G as defendant, and P&G shall answer within the time allotted under the Federal Rules of Civil Procedure.

4. Nothing herein shall constitute a waiver of any claim or defense by the parties.

Dated: August 21, 2008
New York, New York

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Dated: August 21, 2008
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SO ORDERED:


M. H. PAULEY III U.S.D.J.

9/2/08

– and –

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Attorneys for Playtex Products, Inc.

Dated: August __, 2008
New York, New York

SO ORDERED:

William H. Pauley III
U.S.D.J.

